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June 30, 2023

The Honorable Leonard P. Stark
U.S. Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, D.C. 20439

Re: *Crystallex Int'l Corp. v. Bolivarian Republic of Venezuela, et al.*, No. 17-mc-151:
Response to Venezuela Parties' June 27 Letter

Dear Judge Stark:

We represent Red Tree Investments, L.L.C. We write to address a misstatement in the Venezuela Parties' letter of June 27. D.I. 639. The Venezuela Parties state that, at the June 26 conference, Mr. Molo argued that the Court "may disregard state procedure in a Rule 69 enforcement proceeding," and suggest that Mr. Molo argued that the Court may "wholly abandon state procedural requirements." *Id.* at 1. That is false. As the transcript makes clear, Mr. Molo did not argue that the Court may "disregard" or "wholly abandon" Delaware law.

Early in his remarks to the Court, Mr. Molo stated:

On the point about your authority, Rule 69(a)(1) specifically empowers a federal Court to make use of the procedures of the state court in which it sits to aid in the enforcement of judgments, and there's actually – [Wright &] Miller has a section on it, Section 3012.

After providing the court with the case citations, he stated:

There's no need to go to Chancery. You can do it here, and in fact, you don't have to strictly adhere to the procedures that are set forth in state law. There's an inherent flexibility in the nature of these proceedings that the courts have recognized. That's as to the issuance, and we agree that it would be helpful to the process to have a reissuance of the shares.

A copy of the relevant portion of the transcript is enclosed.

Lest there be any confusion, consistent with the case law and Rule 69(a)(1), we suggest that the Court not refer the matter to the Delaware Court of Chancery and, instead, order the reissuance of the share certificate itself.

Respectfully submitted,
/s/ Rebecca L. Butcher
Rebecca L. Butcher (No. 3816)

cc: All counsel of record via CM/ECF

Attachment A

1 that's a difference in term between attached
2 judgments and additional judgment creditors, so
3 we wanted that clarified.

4 And if there are no other questions, Your
5 Honor, that's all I have.

6 THE COURT: Thank you. No other
7 questions.

8 Let me try to run through the rest of you
9 if you want to be heard.

10 Red Tree.

11 MR. MOLO: Good afternoon, Judge.
12 Steven Molo for Red Tree. I'm going to touch
13 on four points. First, the authority for you
14 to order the issuance of the shares without
15 going to Chancery; second, this physical
16 seizure argument that's being made on the bond;
17 third, priority.

18 On the point about your authority, Rule
19 69(a)(1) specifically empowers a federal Court
20 to make use of the procedures of the state
21 court in which it sits to aid in the
22 enforcement of judgments, and there's
23 actually -- Red Miller has a section on it,
24 Section 3012, and I know you don't want anymore
25 briefs, so let me give you a couple cases here

1 I can read into the record.

2 There's a Delaware decision. That's *LNC*
3 *Inc. versus Democratic Republic of Congo*, which
4 is 69 F. Supp. 2d 607, District of Delaware
5 1999. And then there's a case out of the
6 Eastern District of New York which is actually
7 very similar, *Mitchell versus Lyons Pro Service*
8 *Inc.*, 727 F. Supp. 2d 120, EDNY 2010. There's
9 a Seventh Circuit decision authored by Judge
10 Posner, *Resolution Trust Company versus*
11 *Ruggiero*, 994 F.2d 1221, which is Seventh
12 Circuit 1993. And a Ninth Circuit case, *Thomas*
13 *Head and Gerson Employees Trust versus Buster*,
14 which is 93 F.3d. 1449.

15 There's no need to go to Chancery. You
16 can do it here, and in fact, you don't have to
17 strictly adhere to the procedures that are set
18 forth in state law. There's an inherent
19 flexibility in the nature of these proceedings
20 that the courts have recognized. That's as to
21 the issuance, and we agree that it would be
22 helpful to the process to have a reissuance of
23 the shares.

24 As to the physical possession or seizure
25 of the shares, this argument that's been made